request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the Commonwealth of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 9, 1995.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(104) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(104) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on March 31, 1994.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated March 31, 1994 submitting a revision to the Massachusetts State Implementation Plan.

(B) Final Plan Approval No. 4P92012, dated and effective March 16, 1994 imposing reasonably available control technology on Brittany Dyeing and Finishing of New Bedford, Massachusetts.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

3. In § 52.1167, Table 52.1167 is amended by adding new entries to existing state citation 310 CMR 7.18(17) to read as follows:

§ 52.1167 EPA-approved Massachusetts state regulations.

* * * * *

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(17)	Reasonably Available Control Technology.	3/31/94	March 6, 1995	[Insert *FR* citation from published date].	104	RACT for Brittany Dyeing and Finishing of New Bedford, MA.
*	*	*	*	*	*	*

[FR Doc. 95–5350 Filed 3–3–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[TX–47–1–6705a; FRL–5161–5]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision to the State Implementation Plan Addressing Sulfur Dioxide in Harris County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a revision to the Texas State Implementation Plan (SIP) to include Agreed Orders limiting sulfur dioxide (SO_2) allowable emissions at certain nonpermitted facilities in Harris County, Texas. By approving these Agreed Orders into the Texas SIP, along with approving a modeling demonstration showing attainment for the SO_2 National Ambient Air Quality Standards (NAAQS) in Harris County, and acknowledging that Harris County has more than two years of quality assured SO_2 monitoring data showing no violations of the SO_2 NAAQS, the EPA will not, at this time, designate Harris County, Texas nonattainment for the SO_2 NAAQS.

DATES: This final rule is effective on May 5, 1995 unless adverse or critical comments are received by April 5, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register** (FR).

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–A), 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.

U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460

Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Sather, Planning Section (6T-AP), Air Programs Branch (6T–A), USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7258.

SUPPLEMENTARY INFORMATION:

Background

Four violations of the primary 24-hour SO_2 NAAQS of 365 ug/m^3 (0.14 parts per million) were recorded at a single monitoring site (Houston Regional Monitoring Network (HRM) monitoring site #3) located near the Houston Ship Channel in Harris County, Texas, during 1986, 1988, and 1990. The 24-hour SO_2 NAAQS only allows one exceedance of the 365 ug/m^3 standard per calendar year. Each additional exceedance is considered a violation of the NAAQS. Due to the monitoring violations and a modeling study conducted in 1987 by Science Applications International Corporation, under contract with the EPA Region 6, which predicted SO_2 NAAQS exceedances in a portion of Harris County, the EPA declared, in an FR document dated April 22, 1991 (56 FR 16274), that Harris County was under consideration as a potential new SO_2 nonattainment area.

In response to the recommended redesignation, Radian Corporation, which represented the HRM, worked with the Texas Natural Resource Conservation Commission (TNRCC) to obtain reductions in SO_2 allowable emissions from certain Houston industries. Radian then modeled the revised allowable SO_2 emission inventory to determine if the area would attain the SO_2 NAAQS. By achieving these emission reductions, making them federally enforceable, and executing an in-depth modeling study, HRM sought to demonstrate that Harris County was in attainment for SO_2, and could thus avoid being redesignated to nonattainment. The EPA agreed to defer its final decision regarding nonattainment for Harris County, and granted the TNRCC, HRM, and the involved Harris County industries time to complete the modeling analysis, and also allowed the TNRCC to put in place enforceable restrictions on the new SO_2 emission rates (i.e. through Agreed Orders).

Analysis of State Submission

A. Procedural Background

The Clean Air Act (the Act) requires states to observe certain procedural requirements in developing implementation plans for submission to the EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by such state after reasonable notice and public hearing. The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 Code of Federal Regulations (CFR) part 51, appendix V. The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by the EPA six months after receipt of the submission.

The State of Texas held a public hearing on March 31, 1994, to entertain public comment on a proposed Texas SIP revision containing the following elements: (1) An example Agreed Order limiting SO_2 allowable emissions; (2) a modeling demonstration showing SO_2 NAAQS attainment for Harris County; and (3) supporting narrative information. Subsequent to the public hearing and consideration of hearing comments, the SIP revision, containing 13 Agreed Orders, was adopted by the State on June 29, 1994. The SIP revision was submitted by the Governor to the EPA by cover letter dated August 3, 1994.

The SIP revision package was reviewed by the EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. A letter dated September 20, 1994, was forwarded to the Governor finding the submittal complete and indicating the next steps to be taken in the review process.

B. Review of State SIP Revision

The Texas SIP Revision for Harris County contained, as outlined above, modeling analyses demonstrating SO_2 NAAQS attainment for Harris County (3-hour, 24-hour, and annual), Agreed Orders limiting SO_2 allowable emissions at 13 nonpermitted companies in Harris County, and supporting narrative information. The modeling analyses used a revised allowable emission inventory obtained through an SO_2 emissions reduction plan involving many Houston industries. As a result of the reduction plan, about 94,000 tons per year of federally-enforceable SO_2 allowable emissions reductions were obtained in Harris County, thereby decreasing the original areawide SO_2 allowable emissions inventory from about 287,000 tons per year to about 193,000 tons per year.

A review of the worst case scenario modeling presented in the SIP showed no exceedances of the SO_2 NAAQS (i.e. no exceedances at any of the receptors in the modeling grid). The modeling protocol and procedures, approved by the EPA and consistent with the EPA's ''Guideline on Air Quality Models (Revised)'' (July, 1986), used the EPA's Industrial Source Complex Short Term 2 model (most current version at the time of modeling) and five years of meteorological data (1981–1985) from the Houston International Airport with Lake Charles, Louisiana upper air data. A value of 3.5 ug/m^3 was used as the 24-hour background value, based on an evaluation of background monitored values and the area source contribution to the total emission inventory. Further, no violations of the SO_2 NAAQS have occurred at any Harris County area monitoring site since calendar year 1990. It is important to note that an SO_2 violation is defined as more than one exceedance of the 3-hour or 24-hour SO_2 NAAQS, or an exceedance of the annual SO_2 NAAQS. Only one exceedance of the 24-hour SO_2 NAAQS, in 1991, has been recorded in Harris County since calendar year 1990. For SO_2 NAAQS attainment, at least 8 calendar quarters (2 years) of data with no violations of the NAAQS is required. For further details on the modeling analyses and monitoring data, please reference the Technical Support Document (TSD) and the State submittal located at the EPA Region 6 office listed above.

The Agreed Orders were reviewed for consistency with the EPA enforceability guidance (i.e., the September 23, 1987, memorandum from J. Craig Potter regarding SIP enforceability), and with40 CFR part 60. The provisions of the Agreed Orders clearly identify each subject company, which all contain unpermitted SO_2 sources. Each Order, effective June 29, 1994, also sets SO_2 maximum allowable emissions limits, and recordkeeping, reporting and compliance monitoring requirements, including continuous emission monitoring requirements. Six facilities requested approval of an equivalent method of monitoring SO_2 emissions: Crown Central Petroleum Corporation, Exxon Company USA, Lyondell Citgo Refining Company, LTD., Mobil Mining and Minerals Company (Mobil), Phibro Energy USA, Inc., and Shell Chemical/Oil. On June 28, 1994, the Executive Director of the TNRCC approved the alternate method requests. The EPA is also granting in this FR document approval for each of the alternative monitoring proposals. The equivalent monitoring method proposed by all of

the companies, except Mobil, was to use a continuous emission monitor (CEM) to measure the concentration of hydrogen sulfide in the fuel gas that is fed to the combustion units listed in Attachment A of the respective Orders. In addition, it was also proposed by all companies, except Mobil, to use the maximum fuel capacity of the combustion units listed in Attachment A of the respective Orders as part of the calculations to demonstrate compliance with the maximum allowable emission rates in the event there is no fuel feed meter on a combustion unit or in the event the fuel feed meter is out of operation or malfunctioning. Mobil requested approval of an alternative CEM quality assurance program, and an alternative monitoring method for a small emission point. For further details on the Agreed Orders, please reference the TSD and the State submittal located at the EPA Region 6 office listed above.

Final Action

The EPA is approving a revision to the Texas SIP submitted by the Governor of Texas by cover letter dated August 3, 1994, in order to make federally enforceable Agreed Orders to limit SO_2 allowable emissions at 13 nonpermitted facilities in Harris County. By approving these Agreed Orders into the Texas SIP, along with approving the modeling demonstration showing attainment for the SO_2 NAAQS in Harris County, and acknowledging that Harris County has more than 2 years of quality assured SO_2 data showing no violations, EPA will not undertake the process to designate Harris County, Texas as nonattainment for the SO_2 NAAQS at this time.

The EPA has reviewed this revision to the Texas SIP and is approving the revision as submitted. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, this action will be effective May 5, 1995 unless, by April 5, 1995, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 5, 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Miscellaneous

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* vs. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Executive Order

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur dioxide.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 14, 1995.

William B. Hathaway,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(93) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(93) A revision to the Texas State Implementation Plan (SIP) to include agreed orders limiting sulfur dioxide (SO_2) allowable emissions at certain nonpermitted facilities in Harris County, and to include a modeling demonstration showing attainment of the SO_2 National Ambient Air Quality Standards, was submitted by the Governor by cover letter dated August 3, 1994.

(i) Incorporation by reference.

(A) Texas Natural Resource Conservation Commission (TNRCC) Order No. 94–09, as adopted by the TNRCC on June 29, 1994.

(B) TNRCC Order No. 94–10 for Anchor Glass Container, as adopted by the TNRCC on June 29, 1994.

(C) TNRCC Order No. 94–11 for Crown Central Petroleum Corporation, as adopted by the TNRCC on June 29, 1994.

(D) TNRCC Order No. 94–12 for Elf Atochem North America, Inc., as adopted by the TNRCC on June 29, 1994.

(E) TNRCC Order No. 94–13 for Exxon Company USA, as adopted by the TNRCC on June 29, 1994.

(F) TNRCC Order No. 94–14 for ISK Biosciences Corporation, as adopted by the TNRCC on June 29, 1994.

(G) TNRCC Order No. 94–15 for Lyondell Citgo Refining Company, LTD., as adopted by the TNRCC on June 29, 1994.

(H) TNRCC Order No. 94–16 for Lyondell Petrochemical Company, as adopted by the TNRCC on June 29, 1994.

(I) TNRCC Order No. 94–17 for Merichem Company, as adopted by the TNRCC on June 29, 1994.

(J) TNRCC Order No. 94–18 for Mobil Mining and Minerals Company, as adopted by the TNRCC on June 29, 1994.

(K) TNRCC Order No. 94–19 for Phibro Energy USA, Inc., as adopted by the TNRCC on June 29, 1994.

(L) TNRCC Order No. 94–20 for Shell Chemical and Shell Oil, as adopted by the TNRCC on June 29, 1994.

(M) TNRCC Order No. 94–21 for Shell Oil Company, as adopted by the TNRCC on June 29, 1994.

(N) TNRCC Order No. 94–22 for Simpson Pasadena Paper Company, as adopted by the TNRCC on June 29, 1994.

(ii) Additional material.

(A) May 27, 1994, letter from Mr. Norman D. Radford, Jr. to the TNRCC and the EPA Region 6 requesting approval of an equivalent method of monitoring sulfur in fuel and an equivalent method of determining compliance.

(B) June 28, 1994, letter from Anthony C. Grigsby, Executive Director, TNRCC, to Crown Central Petroleum Corporation, approving an alternate monitoring and compliance demonstration method.

(C) June 28, 1994, letter from Anthony C. Grigsby, Executive Director, TNRCC, to Exxon Company USA, approving an alternate monitoring and compliance demonstration method.

(D) June 28, 1994, letter from Anthony C. Grigsby, Executive Director, TNRCC, to Lyondell Citgo Refining Co., LTD., approving an alternate monitoring and compliance demonstration method.

(E) June 28, 1994, letter from Anthony C. Grigsby, Executive Director, TNRCC, to Phibro Energy, USA, Inc., approving an alternate monitoring and compliance demonstration method.

(F) June 28, 1994, letter from Anthony C. Grigsby, Executive Director, TNRCC, to Shell Oil Company, approving an alternate monitoring and compliance demonstration method.

(G) June 8, 1994, letter from Mr. S. E. Pierce, Mobil Mining and Minerals Company, to the TNRCC requesting approval of an alternative quality assurance program.

(H) June 28, 1994, letter from Anthony C. Grigsby, Executive Director, TNRCC, to Mobil Mining and Minerals Company, approving an alternative quality assurance program.

(I) August 3, 1994, narrative plan addressing the Harris County Agreed Orders for SO_2, including emission inventories and modeling analyses (i.e. the April 16, 1993, report entitled ''Evaluation of Potential 24-hour SO_2 Nonattainment Area in Harris County, Texas–Phase II'' and the June, 1994, addendum).

(J) TNRCC certification letter dated June 29, 1994, and signed by Gloria Vasquez, Chief Clerk, TNRCC.

[FR Doc. 95–5352 Filed 3–3–95; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 70

[WI001; FRL–5164–9]

Clean Air Act Final Interim Approval of the Operating Permits Program; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the State of Wisconsin for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: April 5, 1995.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: EPA Region 5, Air and Radiation Division (AT–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Beth Valenziano, Permits and Grants Section (AT–18J), EPA, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–2703.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the Clean Air Act (Act), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On October 19, 1994, EPA proposed interim approval of the operating permits program for the State of Wisconsin. See 59 FR 52743. The EPA received public comment from 7 organizations on the proposal and compiled a Technical Support Document (TSD) responding to the comments and briefly describing and clarifying aspects of the operating permits program. In this notice EPA is taking final action to promulgate interim approval of the operating permits program for the State of Wisconsin.

II. Final Action and Implications

A. Analysis of State Submission and Response to Public Comments

The EPA received comments on a total of 14 topics from 7 organizations. The EPA's response to these comments is summarized in this section. Comments supporting EPA's proposal are not addressed in this notice; however, EPA's complete response to comments TSD is available in the official file at the Region 5 address noted in the **ADDRESSES** section above.

1. Indian Lands

The EPA proposed that interim approval of Wisconsin's operating permits program not extend to lands within the exterior boundaries of reservations of federally recognized Indian Tribes in the State of Wisconsin. The proposal indicated that the Wisconsin Department of Natural Resources (WDNR) had not demonstrated the legal authority to regulate sources on tribal lands. WDNR submitted several comments on this issue, which are summarized and addressed below.

Comment: ''[W]ho will be responsible for issuance of permits to sources on Indian reservations prior to promulgation of either a tribal operation permits program or the federal operation permits program under 40 CFR Part 71? We are not aware of any tribal programs being developed or implemented in Wisconsin, and the federal part 71 rules have not yet been formally proposed. We are concerned about the apparent lack of any regulatory authority over sources on Indian reservations until a federal or tribal program is promulgated.''

Response: At this time, EPA is not aware of any facility within the exterior boundaries of a reservation in the State of Wisconsin that requires a title V operating permit. Further, the Act